

Serial No. 10/590,774
Amendment dated March 31, 2009
Responsive to Final Office Action dated October 31, 2009

WK-5391

REMARKS

Pending Claims

Claims 1-10 are pending in this application. Claims 1-10 have been amended.

Examiner Interview

The courtesy of the Examiner in granting a telephone interview with Applicants' undersigned attorney on March 31, 2009, is greatly appreciated. During the interview, the details of Applicants' invention were discussed in detail and compared with the teachings of the Basile et al. U.S. Patent No. 6,213,863 and WO Patent No. 03/037090. In addition, the amendments to independent claims 1 and 10 regarding the construction and function of the threading element of Applicants' invention were discussed.

While no specific agreement was reached regarding the patentability of the claims, the Examiner indicated that the proposed amendments appeared to patentably distinguish over the cited prior art.

Claim Rejections Under 35 U.S.C. §112

Claims 1-10 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for the various reasons set forth on page 2 of the action. The Examiner specifically referred to claims 1, 4, 5 and 10 as being indefinite for having insufficient antecedent basis for certain limitations.

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By this amendment, claims 1, 4, 5 and 10 have been amended to overcome the Examiner's specific objections regarding insufficient antecedent basis. All of the claims have also been amended in other respects to improve their form. It is submitted that claims 1-10 now meet all the requirements of 35 U.S.C. §112.

Claim Rejections Under 35 U.S.C. §102

While the Examiner referred to claims 1-4 as being rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,213,863 to Basile et al., it is clear that the Examiner intended to reject all of claims 1-9 over Basile et al. since the Examiner made specific comments to all of claims 1-9.

Claim 10 stands rejected under 35 U.S.C. §102(b) as being anticipated by WO Patent No. 03/037090.

For the reasons set forth hereafter, it is submitted that claims 1-10 are patentable.

Patentability of the Claims

Independent claims 1 and 10 have been amended to further define the construction and function of the threading element.

Applicants' invention as now claimed is directed to an apparatus for the automatic automated processing of meat such as fish and includes a transport element such as a conveyer for transporting the meat and a cutting element 12 such as a circular blade for cutting or trimming the meat. A counter-surface 13 is shown in

Figs. 1, 5 and 7 having a slit 26 therein which is provided under the circular blade A control or regulating apparatus is provided which is functionally connected with the cutting element. Significantly, a threading element 14 is mounted forwardly of the counter-surface 13 in a transport plane of the meat, with the threading element being bent at an angle with respect to the counter-surface whereby an outer end of the threading element extends at least partially across the transport plane to at least partially lift one side of the meat prior to the meat reaching the counter-surface.

As clearly shown in Figs. 5 and 7, the threading element 14 is angled at a preferred angle of approximately 30 degrees to extend at least laterally part of the way across the surface of the transport element so that the leading edge of the threading element 14 initially contacts one side of the meat being transported along the transport element whereby a part of the meat is initially lifted off from the transport element. The remainder of the meat is then lifted off the transport element by the threading element 14 as the meat continues to be moved in the direction of transport. In this fashion, the meat is initially lifted prior to reaching the counter-surface 13 whereby the cutting element 12 is easily enabled to cut or trim the meat. A deflector element 30 is arranged on the side of the counter-surface 13 which is opposite the threading element 14 whereby material such as fat which is cut during the cutting process is removed from the transport element. The unit consisting of the counter-surface and the threading element is constructed so as to be swivellable.

Applicants' invention, as described above, is not anticipated or otherwise rendered unpatentable by the cited '863 and '090 references.

The Basile et al. '863 patent relates to an apparatus for skinning meat wherein the meat product 72 is moved along a conveyor belt 12 until it reaches a cutting blade 24 mounted above a tooth gripper roll 18. A flipper plate 56 is pivotally mounted to the frame at a point just behind the leading edge of the cutting blade 24. When cylinder 48 is activated, a pair of arms 26 are raised upwardly which in turn pivots the gripper plate 56 to a raised position as shown in Figs. 3-5. The flipper plate 56 functions to block the further longitudinal movement of the meat product 72 for a short period of time while the meat is trimmed by the knife 24. The flipper plate 56 functions to pivot upwardly and downwardly with respect to the plane of the surface of the conveyor belt as shown in Figs. 3-7. When the skinning has been completed, the flipper plate 56 pivots downwardly as shown in Fig. 6 and the meat is further transported.

In rejecting claim 1, the Examiner referred to Basile having a cutting element 20, 22 for cutting and trimming the meat and a counter-surface at 56, 60. The Examiner then further stated that arranged in the area of the cutting element is a threading element in the form of a bent portion proximate 70 in Fig. 8.

Applicants respectfully submit, however, that the Examiner has not correctly interpreted the teachings of Basile et al. The flipper plate 56 with a bent portion 70 is neither a counter-surface nor a threading element as in Applicants' invention. The flipper plate 56 merely acts as a stop for the meat when the flipper plate is pivoted to a raised position around pivot point 62 so that the cutting element 24 may trim the meat. The flipper plate is located behind the cutting element and therefore can not function

in the same way as applicants' threading element which is located ahead of the cutting element. Moreover, although the flipper plate has a bent portion 70 at the top thereof, it is not in any way similar to the threading element of Applicants' invention. The bent portion 70 does not in any way function to partially lift meat as it travels down the transport element towards the cutting element so that the meat can easily be moved onto the counter-surface which is at a slightly higher elevation than the level of the threading element in Applicants' invention. The flipper plate 56 of Basile et al. does not in any way function to raise the meat products in order to bring them near a cutting element as in Applicants' invention.

Accordingly, it is submitted that claims 1 and claims 2-9 depending therefrom are patentable over Basile et al.

With respect to the rejection of claim 10 over the WO '090 patent, the Examiner states that the footplate 62 shown in Fig. 12 and described in lines 41 and 42 of page 12 of the specification is the equivalent of the counter-surface and the threading element set forth in claim 10. The footplate 62 of the WO '090 reference, however, is only described as "a footplate 62 that raises the fillet into contact with the circular blade 40". At best, it could be argued that the footplate 62 is the equivalent of the counter-surface 13 of the present invention. The patent does not at all disclose an additional threading element which functions to thread the meat before the meat runs up against the counter-surface as occurs with the threading element 14 of the present invention. The WO '090 patent therefore does not anticipate claim 10.

For the foregoing reasons, it is submitted that claims 1-10 are patentable.

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Conclusion

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. WK-5391).

Respectfully submitted,

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